

COMPENSATION AGREEMENT

This Compensation Agreement (this "Agreement"), dated for reference purposes as of January 1, 2015, is entered into by and among the City of Garden Grove, a municipal corporation (the "**City**"), and the following local agencies and school districts, each of which is a taxing entity as defined by Health and Safety Code section 34171(k) (collectively, the "**Other Taxing Entities**" or "**OTEs**");

- | | | |
|---|---|--|
| * | County of Orange;
Orange County Flood Control District;
Orange County Water District;
Orange County Sanitation District;
Orange County Vector Control District;
Orange County Transportation Authority;
Garden Grove Sanitary District;
Orange County Superintendent of Schools, on behalf of the Orange County Department of Education;
Garden Grove Unified School District; and
Rancho Santiago Community College District. | *By initialing next to its name, each Party concurs with the removal of Orange County Water District as a Party to this Agreement. |
|---|---|--|

In this Agreement, the City and the OTEs may each separately be referred to as a "**Party**" or a "**Taxing Entity**" and collectively may be referred to as the "**Parties**" or the "**Taxing Entities**."

RECITALS

A. Prior to February 1, 2012, the Garden Grove Agency for Community Development (herein referred to as the "**Former Agency**") was a community redevelopment agency duly organized and existing under the California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.).

B. Assembly Bill x1 26, chaptered and effective June 27, 2011, added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former redevelopment agencies, including as such laws were amended by Assembly Bill 1484, chaptered and effective on June 27, 2012 (together, the "**Dissolution Act**").

C. As of February 1, 2012, the Former Agency was dissolved pursuant to the Dissolution Act, and the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development (the "**Successor Agency**") implements the Dissolution Act subject to the review and approval by a seven-member Oversight Board (the "**Oversight Board**").

D. Health and Safety Code Section 34180(f) provides that if a city wishes to retain any properties or other assets for future redevelopment activities, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares

of the base property tax, as determined by Health and Safety Code Section 34188, for the value of property retained.

E. Pursuant to Health and Safety Code Section 34191.5(b), upon the Successor Agency's receipt of a "Finding of Completion" from the California Department of Finance pursuant to Health and Safety Code Section 34179.7, the Successor Agency is required to prepare a long-range property management plan ("**LRPMP**") to address the use and disposition of the Former Agency's real property assets. If approved by the Oversight Board and the Department of Finance, the LRPMP may provide for, among other things, the retention of such property for future development and/or transfer of such property to the City for such purposes. Pursuant to Health and Safety Code section 34191.3, the approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all the real property assets of the Former Agency.

F. On May 15, 2013, pursuant to Health and Safety Code Section 34179.7, the Successor Agency received a Finding of Completion from the Department of Finance.

G. On May 29, 2013, pursuant to Health and Safety Code Section 34191.5, the Successor Agency submitted a LRPMP, approved by the Oversight Board, to the Department of Finance. On December 11, 2013, the Successor Agency submitted a revised LRPMP, approved by the Oversight Board, to the Department of Finance. The revised LRPMP provides for the transfer of certain properties from the Successor Agency to the City for future development pursuant to Health and Safety Code Sections 34191.5(c)(2)(A) and 34191.5(c)(2)(B). These properties comprise two sites referred to respectively in the LRPMP and this Agreement as "**Site C**" and the "**Vacant Restaurant Property**," which are more completely described below.

H. In response to a written request by the Department of Finance made in connection with its review of the revised LRPMP, on February 25, 2014, the Oversight Board adopted Resolution No. 31-14 approving certain revisions to the LRPMP. Resolution No. 31-14 provides that the Successor Agency will verify that compensation agreements between the City and the other taxing entities are in place and executed prior to the transfer of Site C and the Vacant Restaurant Property to the City.

I. On March 7, 2014, the Department of Finance approved the revised LRPMP, as revised pursuant to Oversight Board Resolution No. 31-14.

J. Site C consists of several generally contiguous parcels on or near Harbor Boulevard within the City's resort district, which are entitled for the development and operation of a resort hotel, retail, and entertainment project. The property comprising Site C is subject to that certain Grove District Resort Hotel Development Agreement between the City and Land & Design, Inc., or any approved affiliate, assignee or successor thereto permitted by the Agreement (the "**Developer**"), dated April 9, 2013 (the "**Site C Agreement**"), providing for the development and operation of a project on Site C generally consisting of a combination of hotels, retail, restaurant, and entertainment venues, and related parking facilities. Pursuant to the Site C Agreement, the Developer is required to construct and operate the entitled resort hotel project in consideration for the City providing specified economic assistance necessary to fund the economic feasibility gap of the project, including conveyance of Site C to the Developer at no

cost. In conjunction with its approval of the Site C Agreement, the City Council considered an economic evaluation of the proposed project prepared by Horwath HTL, LLC, which concluded that the project's development costs compared to the estimated income and development values reasonably expected from the project generates a negative residual land value, or financial feasibility gap, of approximately \$31.5 million, inclusive of City assistance in the form of conveyance of Site C at no cost to Developer. The Parties anticipate that the development and operation of the project pursuant to the Site C Agreement will result in significant additional future property tax revenue to the Taxing Entities, the net present value of which is no less than what would otherwise be distributed to the Taxing Entities pursuant to Health and Safety Code Section 34180(f) if not for the development and operation of the project pursuant to the Site C Agreement.

K. The Vacant Restaurant Property, which is located at 12361 Chapman Avenue in the City of Garden Grove, and currently identified as Assessor's Parcel No. 233-171-23, is comprised of a 20,908 square foot parcel containing a 10,800 square foot building that formerly housed a restaurant. Upon transfer to the City, the City intends to continue to market the Vacant Restaurant Property for sale to a restaurant operator in accordance with Government Code Section 52201.

L. The Parties intend by this Agreement to satisfy the provisions of the approved LRPMP, Oversight Board Resolution No. 31-14, and Health and Safety Code Section 34180(f), and to provide for payment to the Taxing Entities of their proportionate shares of the net proceeds, if any, to be received by the City in connection with the future disposition of Site C and the Vacant Restaurant Property by the City.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing recitals are true and correct and hereby incorporated herein by reference.

2. Definitions. The following definitions shall apply in this Agreement:

(a) "**Disposition Proceeds**" means the net proceeds, if any, actually received by the City in exchange for the conveyance of fee title or a leasehold interest in Site C and/or the Vacant Restaurant Property. For purposes of this definition, the term "net proceeds" shall mean sales proceeds paid by a buyer directly to City or into escrow, minus sums paid or withheld by escrow for broker and/or agent sales commissions, closing costs, escrow fees, title insurance premiums, applicable taxes, and any other similar fees and costs customarily allocated to the seller of commercial property. The Disposition Proceeds represent the Parties' agreed-upon value of Site C and the Vacant Restaurant Property pursuant to Health and Safety Code Section 34180(f).

(b) **"Each Taxing Entity's Proportionate Share of the Disposition Proceeds"** means each Taxing Entity's proportionate share of the Disposition Proceeds, as determined pursuant to Health and Safety Code Section 34188.

3. Compensation Agreement. This Agreement constitutes a "compensation agreement" between the City and the Other Taxing Entities within the meaning of Health and Safety Code Section 34180(f).

4. Disposition of Site C and Vacant Restaurant Property by City.

(a) Disposition of the Vacant Restaurant Property. The City shall use best efforts to market and expeditiously dispose of the Vacant Restaurant Property and shall comply with all applicable law, including, to the extent applicable, Government Code Section 52201. Unless otherwise mutually agreed by all of the Taxing Entities through an amendment to this Agreement, if the City's disposition of the Vacant Restaurant Property occurs after January 1, 2018, or such other date mutually agreed upon amongst the Parties, such disposition shall be at no less than fair market value, as presently zoned, as determined by an appraisal performed by an appraiser mutually acceptable to all of the Parties. In the event that the City disposes of the Vacant Restaurant Parcel for nominal or no consideration, Parties shall have an appraisal performed by a mutually agreed upon appraiser, at the City's cost, to determine the appraised value of the Vacant Restaurant Parcel and the City shall remit an amount equal to the appraised value to the Orange County Auditor-Controller for determination and distribution of the Each Taxing Entity's Proportionate Share of the Disposition Proceeds. In the event a rezoning of the Vacant Restaurant Property, or its surrounding area, results in a higher market value of the Property, the Parties acknowledge and agree that the higher market value shall apply for purposes of appraising the value of same and remitting an amount equal such appraised value to the Orange County Auditor-Controller for determination and distribution of the Each Taxing Entity's Proportionate Share of the Disposition Proceeds.

(b) Disposition of Site C.

- (i) The City's disposition of Site C shall comply with all applicable law, including, to the extent applicable, Government Code Section 52201.
- (ii) City may convey Site C to the Developer pursuant to the Site C Agreement.
- (iii) City represents that it intends to convey Site C to the Developer pursuant to the Site C Agreement. The Parties acknowledge and understand, however, that City's conveyance of Site C to the Developer pursuant to the Site C Agreement is subject to certain conditions precedent. If, due to a failure of a condition precedent or for any other reason, the City does not convey Site C to the Developer pursuant to the Site C Agreement and the Site C Agreement is terminated, then City shall use best efforts to market and expeditiously dispose of Site C to another developer for development and operation of a similar resort hotel, retail, and entertainment project on

Site C by January 1, 2018. In the event the Site C Agreement is terminated and the City has failed to successfully market and dispose of Site C as aforementioned, the City shall, upon mutual agreement amongst the Parties, be granted an additional year to dispose of Site C. If the Site C, however, is not disposed by either January 1, 2018 or the aforementioned extension of time, if applicable, the Parties shall have an appraisal of Site C performed by a mutually agreed upon appraiser, at the City's cost, to determine the value of Site C and expeditiously market and sell the property using the appraised value of the Site C. Upon sale of Site C, the City shall remit the Disposition Proceeds to the Orange County Auditor-Controller for determination and distribution of Each Taxing Entity's Proportionate Share of the Disposition Proceeds. In the event that the City disposes of Site C, after January 1, 2018, or the aforementioned extension of time, if applicable, for nominal or no consideration, Parties shall have an appraisal performed by a mutually agreed upon appraiser, at the City's cost, to determine the appraised value of Site C and the City shall remit an amount equal to the appraised value to the Orange County Auditor-Controller for determination and distribution of the Each Taxing Entity's Proportionate Share of the Disposition.

- (iv) If, for any reason, fee title to all or a portion of Site C reverts to or is re-vested in the City following conveyance of Site C to the Developer pursuant to the Site C Agreement, but prior to completion of Grove District Resort Hotel Development more particularly described in the Site C Agreement, then, subject to the then existing rights, if any, of third parties, City shall use best efforts to market and expeditiously dispose of such portion of Site C to another developer for development and operation of a similar resort hotel, retail, and entertainment project on Site C by January 1, 2018. In the event of such reversion or re-vesting of fee title to Site C to the City, and the City has not disposed of Site C to another developer as provided in the foregoing sentence within three (3) years after the date of such reversion or re-vesting, then the City shall, upon agreement amongst the Parties, be granted an additional year to dispose of the property. If the Site C, however, is not disposed at the end of the aforementioned three (3) year period, or the aforementioned extension of time, if applicable, the Parties shall have an appraisal of Site C performed by a mutually agreed upon appraiser, at the City's cost, to determine the value of Site C and expeditiously market and sell the property using the appraised value of the Site C. Upon sale of Site C, the City shall remit the Disposition Proceeds to the Orange County Auditor-Controller for determination and distribution of Each Taxing Entity's Proportionate Share of the Disposition Proceeds. Unless otherwise mutually agreed by all of the Taxing Entities through an amendment to this Agreement, if City conveys any re-vested portion of Site C for any purpose other than for development and operation of a similar resort hotel, retail, and entertainment project on Site C, then such conveyance shall be at no less

than fair market value, as determined by an appraisal performed by an appraiser mutually acceptable to all of the Parties.

- (v) The Parties acknowledge that, upon mutual agreement, this Subsection (b) may be amended to allot the City additional time to dispose of Site C.

5. Payment of Proportionate Share of Disposition Proceeds to Taxing Entities. Within fifteen business (15) days after the City receives Disposition Proceeds, if any, in conjunction with the disposition of either Site C or the Vacant Restaurant Parcel, the City shall remit such Disposition Proceeds to the Orange County Auditor-Controller for determination and distribution to the Taxing Entities of Each Taxing Entity's Proportionate Share of the Disposition Proceeds.

6. Time. Time is of the essence in the performance of this Agreement.

7. Limitation of Liability of Other Taxing Entities to City. The OTEs shall not be liable to the City, and the City hereby waives and discharges all claims against the OTEs, for any and all liability, demands, claims, costs, losses, injuries, damages, recoveries, settlements, and expenses (collectively, "Claims") resulting from, or in any way connected with or incidental to, the transfer of title of Site C and/or the Vacant Restaurant Property to the City or the City's management of the Site C and the Vacant Restaurant Property during the term of this Agreement, no matter how caused. This provision shall survive any termination of this Agreement.

8. Indemnification of OTEs by City for Third Party Claims. The City shall indemnify, defend, and hold harmless each OTE and its officers, agents, and employees, from and against any Claims arising out of or related to this Agreement made by the California Department of Finance, the State Controller, and/or any third party not a party to this Agreement.

9. Attorney's Fees. In any action between the Parties to enforce or interpret any of the terms of this Agreement, each Party shall bear its own attorneys' fees and costs.

10. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of California, without regard to conflict of law principles.

11. Entire Agreement. This Agreement contains the entire agreement between the Parties respecting the matters set forth herein, and supersedes all prior agreements between the Parties respecting such matters.

12. Non-liability of Officials and Employees of Parties. No member, official, or employee of any Party shall be personally liable to any other Party, or any successor in interest, in the event of any default or breach of this Agreement or for any amount which may become due hereunder, or on any obligation under the terms of this Agreement.

13. Successors and Assigns. All the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, assigns and legal representatives.

14. No Third Party Beneficiaries. No person or entity other than the Taxing Entities, and the permitted successors and assigns of each of them, shall be authorized to enforce the provisions of this Agreement.

15. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

16. No Waiver. No waiver of any term or condition of this Agreement will be a continuing waiver.

17. Counterparts. This Agreement may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties facsimile or electronic mail and shall be deemed as binding as if an originally signed counterpart was delivered.


SIGNATURES ON FOLLOWING PAGES

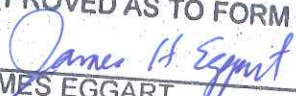
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives indicated below.

CITY OF GARDEN GROVE, a municipal corporation

By: 
City Manager

ATTEST:

By: 
Kathleen Bailor
City Clerk

APPROVED AS TO FORM

JAMES EGGART
Deputy City Attorney
City of Garden Grove
DATED: 2-2-15

SIGNATURES CONTINUE ON FOLLOWING PAGES

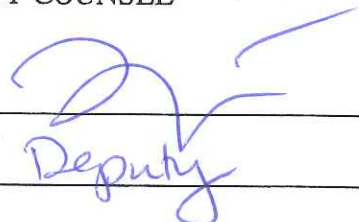
The undersigned signatory hereby executes this Agreement on behalf of the County of Orange and each of the following entities and/or funds:

**ORANGE COUNTY GENERAL FUND
ORANGE COUNTY PUBLIC LIBRARY
O.C. HARBORS BEACHES AND PARKS CSA 26
EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF)**

APPROVED AS TO FORM

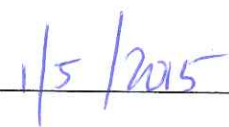
COUNTY COUNSEL

By:



Deputy

Date:

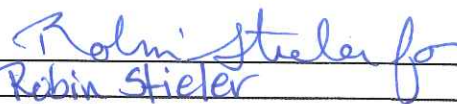


SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER GC § 25103, RESO. 79-1535


COUNTY OF ORANGE, a political subdivision of the State of California



By:



Robin Stieler
Susan Novak
Clerk of the Board of Supervisors
Orange County California

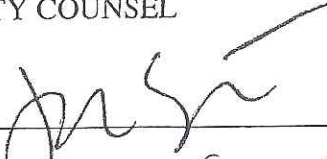


Chair of the Board of Supervisors

SIGNATURES CONTINUE ON FOLLOWING PAGES

APPROVED AS TO FORM
COUNTY COUNSEL

By:



Deputy County Counsel

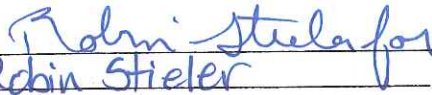
Date:

1/5/2015


SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIR OF THE
BOARD PER GC § 25103, RESO. 79-1535

ORANGE COUNTY FLOOD
CONTROL DISTRICT, a body
corporate and politic

By:




Susan Novak
Clerk of the Board of Supervisors
Orange County California



Chair of the Board of Supervisors

SIGNATURES CONTINUE ON FOLLOWING PAGES

ORANGE COUNTY SANITATION DISTRICT

By: 

Name: Tom Beamish

Its: Board Chair

ATTEST:


By: 

Name: Kelly A. Lore

Its: Acting Clerk of the Board

APPROVED AS TO FORM:

LEWIS BRISBOIS BISGAARD & SMITH, LLP

By: 
Special Counsel

SIGNATURES CONTINUE ON FOLLOWING PAGES

**ORANGE COUNTY WATER DISTRICT, a political subdivision of the State of California
organized under Chapter 924 of the Statutes of 1933, as amended**

By: _____

Name: _____

Its: _____

ATTEST:

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Its: _____

SIGNATURES CONTINUE ON FOLLOWING PAGES

ORANGE COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT


By: 
Michael Hearst
District Manager

ATTEST:

By: 
Name: William P. [unclear]

Its: Secretary

APPROVED AS TO FORM:

By: 
Alan R. Burns
District Counsel

SIGNATURES CONTINUE ON FOLLOWING PAGES

ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity

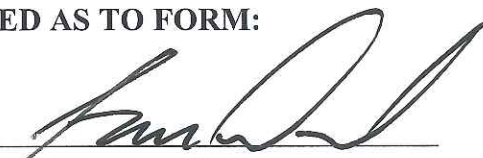
By: 

Darrell Johnson
Chief Executive Officer

ATTEST:

By: _____
Name: _____
Its: _____

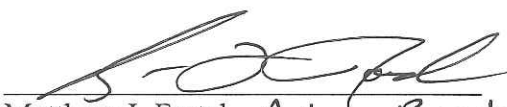
APPROVED AS TO FORM:

By: 


Name: JAMES M. DONICH
Its: GENERAL COUNSEL

SIGNATURES CONTINUE ON FOLLOWING PAGES

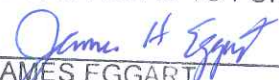
GARDEN GROVE SANITARY DISTRICT, a subsidiary special district of the City of Garden Grove

By: 
~~Matthew J. Ferial~~ Allan Roeder
General Manager, Interim

ATTEST:

By: 
Kathleen Bailor
Secretary

APPROVED AS TO FORM


JAMES EGGART
Deputy City Attorney
City of Garden Grove

DATED: 2-2-15

SIGNATURES CONTINUE ON FOLLOWING PAGES

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
On behalf of the Orange County Department of Education

By: Wendy Benkert
Wendy Benkert, Ed. D.
Associate Superintendent for Business Services

ATTEST:

By: _____

Name: _____

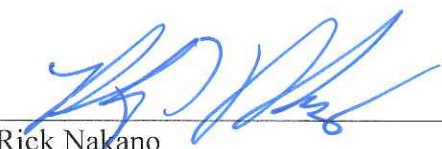
Its: _____

APPROVED AS TO FORM:

By: Ronald D. Wenkart
Ronald D. Wenkart
General Counsel

SIGNATURES CONTINUE ON FOLLOWING PAGES

GARDEN GROVE UNIFIED SCHOOL DISTRICT

By: 
Rick Nakano
Assistant Superintendent Business Services

ATTEST:

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Its: _____

SIGNATURES CONTINUE ON FOLLOWING PAGE

RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT

By: 
Peter J. Hardash *1/20/15*
Vice Chancellor Business Operations/Fiscal Services

ATTEST:

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Its: _____